

# KING & SPALDING

King & Spalding LLP  
1185 Avenue of the Americas, 34th Floor  
New York, NY 10036-4003  
Tel: +1 212 556 2100  
Fax: +1 212 556 2222  
www.kslaw.com

Andrew C. Hruska  
Partner  
Direct Dial: +1 212 556 2278  
Direct Fax: +1 212 556 2222  
ahruska@kslaw.com

May 1, 2023

## VIA ECF

Magistrate Judge Therese Wiley Dancks  
U.S. District Court  
100 S. Clinton Street  
Syracuse, NY 13261

Re: *Young America's Foundation et al v. Stenger et al*, 3:20-cv-822-LEK-TWD

Dear Judge Dancks,

Plaintiffs respectfully submit this letter in response to State Defendants' April 26, 2023 letter (Dkt. No. 234) and the Court's order (Dkt. No. 236). The alleged issues raised by State Defendants are either moot or not ripe for judicial assistance.

State Defendants have conducted 15 depositions in the past three-and-a-half months. Nearly every one of these depositions was immediately followed by a litany of burdensome and intrusive requests to each witness. Contrary to State Defendants' letter (Dkt. No. 234), Plaintiffs' counsel has acted diligently and in good faith to respond to the myriad requests levied by State Defendants.

State Defendants' alleged "outstanding" discovery issues are addressed in turn below.

1. *State Defendants' request for production (RFP) to former Binghamton University College Republicans ("BUCR") President John Restuccia (sent Jan. 12, 2023)*: Plaintiffs served responses to this RFP on March 3, 2023. No additional materials are in Plaintiffs' possession, custody, or control, as Plaintiffs explained to State Defendants' counsel on April 14, 2023. (Dkt. 234 at Ex. 8.)

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2. *State Defendants' RFP to Plaintiff YAF employee Raj Kannappan (sent Jan. 20, 2023)*: Plaintiffs served responses to this RFP on March 3, 2023. No additional materials are in Plaintiffs' possession, custody, or control, as Plaintiffs explained to State Defendants' counsel on April 14, 2023. (Dkt. 234 at Ex. 8.)
3. *State Defendants' request for verifications to search Binghamton.edu email accounts (sent Jan. 12, 2023)*: Plaintiffs object to the request for authorizations to search certain Binghamton.edu email accounts because the accounts belong to individuals who are non-parties and because Plaintiffs are not aware of any discovery rule that permits a party to request such an authorization. Plaintiffs will and have provided discovery as directed by the Federal Rules of Civil Procedure. Plaintiffs have sought leave to join Ms. Bey as a Plaintiff and upon joinder will search her emails and provide responsive material, as provided by Rule 34.
4. *State Defendants' RFP to BUCR member Logan Blakeslee (sent Mar. 10, 2023)*: Plaintiffs served responses to this RFP on April 27, 2023. No additional materials are in Plaintiffs' possession, custody, or control.
5. *State Defendants' RFP to former BUCR member and former Plaintiff Jon Lizak (sent Mar. 16, 2023)*: Plaintiffs served responses to this RFP on April 27, 2023. No additional materials are in Plaintiffs' possession, custody, or control.
6. *State Defendants' second request for verifications to search Binghamton.edu email accounts (sent Mar. 22, 2023)*: Please see Plaintiffs' response to item 3 above.
7. *State Defendants' RFP to former BUCR member Spencer Haynes (sent Mar. 24, 2023)*: Plaintiffs served responses to this RFP on April 28, 2023. No additional materials are in Plaintiffs' possession, custody, or control.
8. *State Defendants' RFP to former BUCR member Kyle Nelson (sent Mar. 29, 2023)*: Plaintiffs have sent repeated messages to Mr. Nelson at his last known contact information (provided by State Defendants) detailing the RFP and requesting his assistance in responding. Plaintiffs have not received any responses. Should Plaintiffs make contact with Mr. Nelson and should he have responsive materials, Plaintiffs will promptly produce them.
9. *State Defendants' RFP to former BUCR member Preston Scagnelli (sent Mar. 30, 2023)*: Plaintiffs served responses to this RFP on April 28, 2023. No additional materials are in Plaintiffs' possession, custody, or control.

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10. *State Defendants' email regarding the status of the above RFPs (sent April 14, 2023)*: Plaintiffs responded the very same day that certain responses were imminent and others would be made "over the next few weeks." (Dkt. 234 at Ex. 8). As detailed above (save for the Nelson RFP), Plaintiffs made such productions as promised.

Some delays in making the above productions were unavoidable. Many of these depositions were of former BUCR members, whom undersigned counsel represented only in their capacity as party witnesses. These witnesses are largely young adults who are no longer affiliated with a student group at a university they graduated from one or more years ago regarding events three-and-a-half years ago.

Nevertheless, Plaintiffs promptly engaged with the witnesses to identify any responsive materials and have produced them to State Defendants. If responsive materials are discovered from Nelson, Plaintiffs will promptly produce them as well.

Respectfully Submitted,

/s/ Andrew C. Hruska  
ANDREW C. HRUSKA  
JOSEPH L. ZALES  
KING & SPALDING LLP  
1185 Avenue of the Americas  
New York, NY 10036  
(212) 556-2100  
ahruska@kslaw.com  
jzales@kslaw.com